

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

THE STATE OF MISSOURI, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 3:22-cv-01213-TAD-KDM
v.)	
)	
JOSEPH R. BIDEN, JR., in his official)	
capacity as President of the United States, <i>et</i>)	
<i>al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANT CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY'S
MOTION FOR LEAVE TO FILE SUR-REPLY TO PLAINTIFFS' MOTION TO
COMPEL SUPPLEMENTAL DISCLOSURES**

Defendant Cybersecurity and Infrastructure Security Agency (CISA) respectfully moves for leave to file a brief, one and one-half page sur-reply to Plaintiffs' Motion to Compel Supplemental Disclosures to address a material omission contained in Plaintiffs' reply brief concerning "switchboarding." ECF No. 84. A copy of Defendants' sur-reply and a proposed Order are attached.

Good cause exists for this motion for leave. Plaintiffs contend in their reply brief that a document on CISA's website that describes CISA's switchboarding work during the 2018 and 2020 election cycles "indicates that 'switchboarding' is an *ongoing* activity since the 2018 election cycle, and that—far from discontinuing it—CISA most recently 'expanded the breadth of reporting' to include 'more social media platforms.'" Pls.' Reply at 4 (quoting CISA, *Mis, Dis, Malinformation*, www.cisa.gov/MDM (visited Jan. 24, 2023)) (emphasis in original)

But Plaintiffs' counsel asked CISA's chief of the Mis-, Dis-, and Malinformation Team, Brian Scully, about this portion of CISA's website at his deposition (a copy of which is an exhibit to Plaintiffs' motion to compel), and Mr. Scully explained that "[l]ike I said earlier, we didn't do [switchboarding] in 2022, so we should change that [document on CISA's website to read] 'to served.' Thank you for finding that." ECF No. 179-6, Scully Depo. Tr. 365:13:67:3.

Because Plaintiffs' reply brief misstates the import of this document, Defendants respectfully seek leave to file the attached brief sur-reply to correct the record.

Dated: January 25, 2023

Respectfully submitted,

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CERTIFICATE OF COUNSEL UNDER LOCAL RULE 37.1

Pursuant to Local Rule 37.1, the undersigned counsel for Defendants hereby certifies that on January 25, 2023, she met and conferred with counsel for Plaintiffs by email, and counsel for Plaintiffs indicated that he opposed Defendants' motion for leave to file a sur-reply.

Kyla M. Snow
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